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**Youth Services
Employee Manual
A.2.1 (b) Employee Rules of Conduct**

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YOUTH SERVICES EMPLOYEE RULES OF CONDUCT

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EMPLOYEE RULES AND CONDUCT CODE

PART I: EMPLOYEE RULES AND POLICIES

All employees are expected to lead by example. The Employee Rules and Conduct Code is comprised of YS/OJJ Policies which outline expected behaviors and Rules that describe behaviors that are prohibited. Consequences for failing to follow the rules include initiation of a performance evaluation review action or disciplinary action. The maximum penalty for any rule violation is dismissal.

RULE 1: GENERAL MISCONDUCT

- a. **Rule 1a: Inappropriate Behavior** - Employees must conduct themselves in professional manner which supports the security and/or stability of the unit, the safety of staff and youth, and the efficiency of state service.
- b. **Rule 1b: Inappropriate Behavior** - Each employee must perform his duties properly and free from negligence so as to fulfill the purpose and responsibility of his assignment.

RULE 2: SAFETY AND SECURITY

Employees must promote the safety and security of their assigned unit, the youth in their care, other staff and the public. They must prevent the introduction or storage of intoxicating liquors, weapons, drug paraphernalia, pornographic material, substances defined in the Uniform Controlled Dangerous Substance Law, and any other article, substance or thing that may reasonably be considered to endanger safety or security. Employees must not possess these items when at the worksite or on duty. Employees who violate this rule may also be prosecuted under La. R.S. 14:402.

a. Contraband -

- Any controlled dangerous substance as defined in LSA - R.S 40:961 et seq or any controlled dangerous substances or devices as defined in LSA-R.S. 14:402(D)(1), that if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic effect;
- A dangerous weapon (or plans for making a dangerous weapon), or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape;
- Explosives or combustibles;
- An alcoholic beverage or other beverage which produces or may produce an intoxicating effect;
- Stolen property;

- Any currency or coin, article of food, toiletries, or clothing, unless authorized by the Facility Director;
- Any telecommunications equipment or component hardware, including but not limited to cellular phones, pagers, tape recorders, global satellite system equipment, subscriber identity module (SIM) cards, portable memory chips, batteries, and chargers, whether or not such equipment may be intended for use in planning or aiding an escape or attempt to escape from any institution, unless authorized by the Facility Director.

Facility-defined contraband is any item declared contraband by written policy, memo or instruction by the Deputy Secretary or Unit Head.

1. **Rule 2a1: Possession of Contraband** - No employee shall possess or attempt to possess intoxicating liquors, weapons, drug paraphernalia, pornographic material, substances defined in the Uniform Controlled Dangerous Substance Law, or any other article, substance or thing that may reasonably be considered to endanger safety or security. Employees who violate this rule may also be prosecuted under La. R.S. 14:402.
2. **Rule 2a2: Introduction of Contraband** - Contraband items shall not be brought into, possessed or stored in any part of a youth facility/office, state-owned vehicle or equipment, or personal vehicle or equipment brought into a secure facility.
3. **Rule 2a3: Failure to Report Contraband** - Employees must report any knowledge, observation or suspicion of contraband. Failure to report contraband is prohibited.

b. Alertness

1. **Rule 2b1: Failure to Remain Alert** - Employees are expected to remain alert while on duty.
2. **Rule 2b2: Sleeping While on Duty** - Employees are expected to remain awake while on duty. Sleeping while on duty is prohibited.
3. **Rule 2b3: Reporting to Work on Medication** – Employees must not report to work while taking medication that interferes with the proper performance of their duties. An employee taking medication which interferes with the proper performance of his duties shall request sick leave. If the employee does not request sick leave and comes to or remains at work, he shall be immediately placed on sick leave if the effect of the medication he is taking interferes with the performance of his duties.

c. Intoxicants or Drugs

1. **Rule 2c1: Working Under the Influence** – Employees are prohibited from possessing, using or being under the effects of alcohol, drugs or any mood-altering substance while on duty or on the premise of any YS/OJJ office or unit or while riding in or operating a state vehicle. Employees must be sober and drug-free while on duty.
2. **Rule 2c2: Failure to Take Alcohol or Drug Test** - An employee may not refuse to take an alcohol or drug test while on duty or in conjunction with an investigation of an event that occurred while he was on duty. Employees who are allowed home auto storage of state vehicles are subject to drug and/or alcohol testing any time they are driving a state vehicle.
3. **Rule 2c3: Positive Test for Prescription Drug but Having No Prescription** - It is prohibited for an employee to have a positive confirmatory test for a controlled or illicit substance or a prescription drug for which he has no current prescription properly issued in his name.

The philosophy of the Department regarding drug use is expressed in YS Policy No. A.2.7, "Drug-Free Workplace."

RULE 3: TREATMENT OF YOUTH

Employees are expected to display appropriate behavior and skills. Employees should use concern, empathy, respect and fairness when interacting with youth. Abuse, neglect or exploitation of youth is prohibited. It is recognized that unique problems are encountered in providing care for youth in facilities whose behavior is at times uncooperative, anti-social, violent or aggressive. Successful treatment and care for these youth is founded in programs that reflect both a learning environment and a structured setting.

Employees are to encourage, coach, and appropriately interact with youth, taking action to intervene when necessary. Physical interventions that are necessary may also be defined as force, that is, a physical, chemical or mechanical intervention that causes someone to act in a manner contrary to his intent or causes him to change his behavior to a desired action or to more desirable conduct. Action taken to effect intervention must be appropriate to the situation and consistent with the policies of YS, the laws of the state, and in keeping with ethical and moral dictates of professional practice.

If any employee sees abuse occurring, whether it is staff abusing youth, youth abusing staff, or youth abusing youth, he has a duty to intervene to stop the abuse, and he has an obligation to report the abuse by a written report to his supervisor. Standing idly by without responding to remedy the situation ("omission") is as much a violation as being actively involved in the incident.

- a. **Abuse** – Abuse of youth is prohibited. Abuse is an intentional, knowing or reckless act or omission that may cause emotional harm, mental harm, physical injury, or death. This includes but is not limited to corporal punishment, slapping, hitting, and premature, excessive, or unnecessary physical or mechanical force. Some other examples of abuse are: harassment, coercion, cursing, taunting, intimidation, and the deliberately damaging, destroying or otherwise misusing a youth's belongings.

1. **Rule 3a1: Physical abuse:** Any behavior by a staff member that imposes physical pain on a youth, except when staff is authorized to use certain force techniques when necessary to maintain control in certain situations, is physical abuse. Examples of physical abuse are slapping, hitting, pushing, and any physical force exerted on a youth to produce or likely to produce pain. Employees should refer to YS Policy No. C.2.6 "Use of Interventions-Secure Care," which is a part of this rule. Physical abuse can be further described as:

- (a) Corporal punishment – punishment inflicted through the use of physical contact.
- (b) Excessive force – force used beyond that which is reasonable to control a situation where a form of physical intervention is warranted.
- (c) Premature force* – the use of physical intervention before exhaustion of the continuum outlined in YS Policy No. C.2.6 "Use of Interventions-Secure Care".

***APPLIES ONLY TO SECURE CARE FACILITY STAFF**

- (d) Unnecessary force – force used that cannot be reasonable justified by the facts of the situation.

2. **Rule 3a2: Emotional/Verbal abuse:** A failure to treat youth fairly and with dignity and respect. Examples of emotional abuse are harassing, cursing, taunting, coercing and intimidating youth.

3. **Rule 3a3: Property abuse:** The deliberate damage, loss, destruction, or misuse of a youth's belongings, regardless of whether those belongings are authorized by the facility or not. If unauthorized property is discovered, it must be handled in accordance with facility policy.

- b. **Rule 3b: Neglect:** A negligent act or omission, including failure to comply with a youth's case plan, that causes or may cause substantial emotional harm or physical injury to, or death of a youth.

Institutional abuse or neglect [Children's Code 603. (14)] – any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment or education.

Neglect-Children's Code 603 (16) – The refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

- c. **Rule 3c: Exploitation:** The illegal or improper manipulation of a youth or his resources for monetary or personal benefit is prohibited.
- d. **Rule 3d: Sexual Abuse:** Any sexual behavior with a youth, with or without the youth's consent. This includes, but is not limited to, staff-on-youth sexual abuse, manipulation, exploitation, coercion, solicitation, verbal or physical intimidation, or force that may be used to gain participation in the sexual behavior.

RULE 4: DRESS/APPEARANCE

Employees are expected to dress appropriately and present a neat appearance. Specific dress/attire guidelines as outlined in YS Policy Nos. A.2.15 "Dress Code – Facility and Community Services" and A.2.56 "Central Office Dress Code" must be followed.

- a. **Rule 4a: Dress Code** - Failure to dress within the dress code guidelines is prohibited.
- b. **Rule 4b: Dress Code** - Failure to appear in court or at a hearing properly attired is prohibited. Employees who are subpoenaed to attend court, Civil Service or other work-related hearings must wear their uniforms or usual work attire.
- c. **Rule 4c: Dress Code** - Employees in uniform must not enter places such as bars or lounges or loiter on their premises except in the performance of their official duties.
- d. **Rule 4d: Dress Code:** YS badges and identification cards shall only be used in the performance of official duties.

RULE 5: JOB PERFORMANCE

Employees are expected to perform their duties so as to fulfill the purpose and responsibility of their assignment. They are to follow written and verbal instructions, provide truthful and complete information, maintain confidentiality of records and information, and ensure that all discussion of information between employees is job-related, professional and discreet.

- a. **Rule 5a: Failure to Follow Orders** - Employees must follow written and verbal instructions. This includes but is not limited to: (a) YS policies, (b) unit procedures and directives, (c) post orders, (d) Civil Service Rules and (e) other written procedures and policies. Employees must obey verbal or written orders from Investigative Services investigators to appear for interviews, give written and/or oral statements, and to cooperate with investigators. Failure to follow a direct written or verbal order or instruction is an aggravating circumstance that will result in a more severe penalty.

- b. **Rule 5b: Failure to Follow Orders (IS interviews/polygraph)** -Employees shall report for polygraph tests as provided for in YS Policy No. A.1.11 "Polygraph Testing of Employees" which is made a part of this rule. Employees can be ordered to report for a polygraph test by anyone in their chain of command or by an Investigative Services investigator. If an employee appears for a polygraph examination and refuses the order to be examined, he will be disciplined for failure to obey a direct order, part a. of this rule.
- c. **Rule 5c: Failure to Provide Complete and Truthful Information** - Employees shall provide truthful, complete and accurate information on reports, logs, records, progress notes, case plans, e-mails, and other official work products as well as during interviews, meetings, court appearances, investigations and other work-related events.
- d. **Rule 5d: Confidentiality of Records and Information** - Employees shall respect and maintain confidentiality of agency records and information pertaining to youth, personnel-related records, and other information pertaining to employees and youth except as ordered by the courts, specifically permitted by law or administratively approved.
- e. **Rule 5e: Gossiping** - The discussion of confidential information between employees which is not job-related, professional or discreet is prohibited.

RULE 6: WORK BEHAVIOR - MALFEASANCE

Employees are expected to maintain cooperative, courteous, and helpful attitudes toward other fellow workers and employees, supervisors, visitors, youth and the general public.

- a. **Rule 6a: Malfeasance, discourteous behavior, offensive language/behavior** - Employees are expected to be courteous to each other, supervisors, subordinates, youth, visitors and the general public. Employees shall not use racial slurs, or profane, derogatory, vulgar, intimidating or offensive language. "Language" includes gestures and facial expressions.
- b. **Rule 6b: Malfeasance, Hostile or Offensive Workplace** - Deliberate and/or repeated unsolicited words, comments, gestures, or other acts which have the purpose or effect of unreasonably interfering with another employee's work performance or creating an intimidating, hostile, or offensive work environment are prohibited. Employees must obey YS Policies A.2.8 "Sexual Harassment" and A.2.47 "Equal Employment Opportunity".
- c. **Rule 6c: Malfeasance – Threatening, Intimidating, Assaulting** - Employees shall not threaten, intimidate, or attempt to intimidate another employee or a visitor. No employee shall assault or commit battery upon another employee or visitor. To do so is prohibited.
- d. **Rule 6d: Malfeasance – Negative Comments About Others** - Negative comments about other employees, their personal characteristics and/or job performance,* the administration or its policies, or management decisions shall not be made in the presence of youth, fellow or subordinate employees or visitors.

**This rule excludes job performance related comments made in the course of duty (i.e., comments made to immediately correct a critical error that must be rectified without delay regardless of the presence of other employees, youth, or visitors.*

- e. **Rule 6e: Malfeasance – Disruptive Behavior** - Employees are expected to conduct themselves in a manner which neither disrupts nor causes others to disrupt usual operations.
- f. **Rule 6f: Malfeasance – Failure to Aid** - Employees shall take reasonable steps to render aid and assistance whenever it appears that an individual's personal safety may be in jeopardy. This includes youth.
- g. **Rule 6g: – Malfeasance – Theft** - Employees shall not steal or otherwise misappropriate the property of others or the State.
- h. **Rule 6h: Malfeasance – Destruction of Property** - Employees shall not willfully or negligently damage, destroy, lose or misuse the property of others or of the State.
- i. **Rule 6i: Malfeasance – Personal Activities** - Employees shall not use computers, study, read, or watch television for pleasure or recreation, or engage in personal recreational activities while on duty.
- j. **Rule 6j: Malfeasance – Unsafe Operation of Equipment** - State and personal vehicles, equipment and machinery used in the performance of official duties shall be operated in a cautious and safe manner in conformity with state laws and YS/unit policies.
- k. **Rule 6k: Malfeasance – Employees Living on the Grounds** - Employees living on the grounds of youth facilities and/or in state-owned housing shall obey all pertinent YS/unit policies and guidelines.
- l. **Rule 6l.1: Malfeasance – Law Violations** - Employees shall not violate local, state or federal law.

Rule 6l.2: Malfeasance – Failure to Notify of Arrest/Summons - An employee charged with criminal conduct may be placed on leave pending the outcome of the charges. A criminal conviction is not necessary to support a finding of a violation of this rule. An employee must notify his immediate supervisor (or Unit Head if supervisor is not available) within 72 hours of his arrest or receipt of a summons/ticket/citation for any violation of the Criminal Code or Title 40, Controlled Dangerous Substances Law in accordance with YS Policy No. A.2.18 "Criminal Record Check".
- m. **Rule 6m: Malfeasance – Contacting Outside Agencies on a Youth or Inmate's Behalf** – Employees are prohibited from either directly or indirectly contacting criminal justice or other outside agencies to influence or make recommendations, favorable or unfavorable, on behalf of persons in the custody of or under the supervision of YS or Corrections Services, except when such

recommendations are officially made as required by law or part of the employee's job, or when the employee was a victim of or a witness to a crime the youth or inmate committed or is a family member of a victim or witness.

- n. **Rule 6n: Malfeasance – Failure to Cooperate with Investigations, Untruthfulness** -Employees shall cooperate with all YS and/or unit investigations and inquiries, answering all questions truthfully, completely and accurately.
- o. **Rule 6o: Malfeasance – Sexual Misconduct** - Employees shall not engage in sexual conduct and/or sexually-related activities with anyone while on duty, including but not limited to hand-holding, kissing, hugging, inappropriate sexual contact, and sexual intercourse.
- p. **Rule 6p: Malfeasance – Unsafe Weapon Handling** - Employees shall handle all weapons safely and in accordance with YS and unit policy.

RULE 7: ATTENDANCE AND WORK HOURS

Employees must report for duty each workday on time to one's duty station. Being on the premises does not constitute being at one's duty station. Employees are cautioned that violation of YS Policy No. A.2.37 "Separation for Unscheduled Absences" can result in disciplinary action if not followed in addition to the rules in this manual.

- a. **Rule 7a: Failure to Secure Leave in Advance/Failure to Report for Duty** – Failure to secure leave in advance and in accordance with YS and unit policy is prohibited. Leave is to be requested and approved in advance, with the exception of sudden illness or emergency, in which case employees are expected to notify supervisors or follow unit procedures.
- b. **Rule 7b: Job Abandonment** - Any employee absent for three consecutive work days without securing approved leave will be considered to have abandoned their job.
- c. **Rule 7c: Late to Work** - Employees who will be late for work must follow unit procedures in notifying the appropriate authority. Failure to follow unit policy when the employee will be reporting late to work is prohibited.
- d. **Rule 7d: Assigned Duty Post** - No employee shall fail to report to his assigned duty post or leave his assigned post without being properly relieved or without permission.

RULE 8: MEDIA RELATIONS

Rule 8: Media Relations: Violation of YS Policy No. C.1.13 "Legislative Request / Communication, Media Access and Public Information" is prohibited. Statements or releases to the news media, including but not limited to comments regarding YS policy or practices, shall be made only by the Deputy Secretary, Communications Director, Unit Head, or their designees, as set forth in policy.

RULE 9: RELATIONSHIPS WITH YOUTH AND THEIR FAMILIES – This rule and its subsections applies to youth currently in OJJ custody or under OJJ supervision and those formerly in OJJ custody or under OJJ supervision. Employees are expected to display appropriate behavior and use appropriate skills (i.e. concern, empathy, respect and fairness) with youth and their families.

- a. **Rule 9a: Maintaining Professional Relationships with Youth, their Friends and Families** - Employees shall maintain a professional, work-related adult relationship with youth at all times. In the event a friend or relative of an employee is placed in OJJ custody or under OJJ supervision, the employee must advise his Unit Head of that fact. The Unit Head will advise the employee and other staff within the unit of restrictions and rules the Unit Head imposes as relates to the employee and the youth as a result of this placement.
 1. **Rule 9a1: Prohibited Relationships with Youth, Their Friends and Families** - Employees shall not be involved in nonprofessional relationships with youth or with youths' families or friends. This includes, but is not limited to, the writing/receiving of personal letters and making/receiving personal phone calls to/from youth or to/from youths' families or friends, as well as engaging in personal relationships and/or sexual activities with youth or youths' families or friends.
 2. **Rule 9a2: Reporting Prohibited Communication with Youth, Their Friends and Families** - An employee must immediately report the following to their supervisor: mail, phone calls, or any type of communications received from youths or their families which are outside the normal course and scope of the employee's job duties.
- b. **Rule 9b: Prohibited Gifts** - Employees shall not accept gifts or anything of value from a youth, youth's family or a youth's visitors without Unit Head authorization.
- c. **Rule 9c: Improper Purchases** - Purchases from youth must be processed through proper channels.
- d. **Rule 9d: Receiving Money without Authorization** - Only those employees designated in writing by the Deputy Secretary or Unit Head may receive cash, checks, money orders or other type payments for transmission to or from youth.
- e. **Rule 9e1: Gambling** – Employees are prohibited from betting or gambling with youth.
Rule 9e2: Selling or Delivering Unauthorized Items, Unauthorized Transactions - Employees will not sell or deliver unauthorized items or contraband, borrow, lend, trade, give gifts (or anything of value) to youth, their families or visitors.

- f. **Rule 9f: Circumventing YS Policies** - Employees shall not assist a youth or a youth's visitor or family member in circumventing YS policy.

RULE 10: REPORTING EMPLOYEE RULES OF CONDUCT VIOLATIONS

Rule 10: Failure to Report Employee Violations - Employees are required to report suspected or observed conduct and/or rule violations of other employees to their supervisor. They must report if they see a violation, hear about a violation, or have any reason to suspect that a violation has been/is about to be committed. If the violation(s) involve their supervisor, the activities are to be reported to the Unit Head.

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PART II: DISCIPLINARY ACTIONS

If the Unit Head determines that disciplinary action is appropriate as a result of the incident cited on the VR-1, the penalty shall be determined based upon the guidelines described below.

I. Available Penalties and Corrective Actions

Disciplinary penalties available for rule violations are: suspension without pay, reduction in pay, involuntary demotion and dismissal.

- A. Reduction in pay (in increments equal to a specific number of days on suspension without pay).
- B. Involuntary demotion in rank or pay level.
- C. A suspension without pay cannot exceed 176 work hours except under Civil Service Rule 12.5, or as ordered or agreed to under Chapter 13 or 16.
- D. Dismissal.

II. Application of Penalties

The severity of the penalty shall be determined by the seriousness of the offense and consideration of aggravating and mitigating circumstances. A combination of penalties (e.g. a reduction in pay coupled with a suspension) may be used to achieve the desired disciplinary result.

- A. Aggravating circumstances include, but are not limited to:
 - 1. Previous verified rule violations, the severity of the violation(s), the number of prior violations and the time frame over which the violations occurred.
 - 2. Threat/danger to security (public, staff and youth).
 - 3. Disruption of unit operations and activities (impairment to services).
 - 4. Willfulness of the rule violation (whether the rule violation was intentional, deliberate or grossly negligent).
- B. Mitigating circumstances shall include, but are not limited to:
 - 1. Employee's length of service.
 - 2. Employee's caliber of service.

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PART III: NON-DISCIPLINARY ACTIONS

There are a range of options available to address performance and/or job-related issues in a non-disciplinary manner. A VR-1 may be used but is not necessarily required or appropriate to initiate options.

The "Other Suspension Options" (described in Section III of this part) are non-disciplinary; however, contingent upon the findings surrounding the incident, these actions may precede disciplinary action.

I. Performance Evaluation Actions Resulting From VR-1

If it is determined that non-disciplinary performance review action should be imposed as a result of the incident cited on the VR-1, such action shall be made at the unit level. Performance review actions may include, but are not limited to:

- A. Letter of Counseling (LOC) / Letter of Improvement (LOI).
- B. Notation to Performance Planning and Review Record.
- C. Formal or Informal Counseling Session/Conference.
- D. Required Attendance at Specific Training.

Generally, LOC's/LOI's are issued at the discretion of the Unit Head for the purpose of advising the employee of his/her offending behavior or actions(s) and providing guidance and instruction regarding a required change in behavior.

LOC's/LOI's shall be issued to the employee under the signature of the Unit Head (or his designee) and a copy of the letter shall be placed into the employee's Performance Evaluation file maintained by the employee's supervisor. The employee may submit a written response to the letter; any such response shall be attached to and maintained with the letter. Both the letter, and response if any, must be downloaded into the Legal Services Employee Activity Database.

II. Other Performance Evaluation Related Options

If an employee's overall Performance Evaluation demonstrates "Needs Improvement / Unsuccessful", the employee shall not be eligible for: 1) a performance adjustment, a promotion or permanent status, or 2) detailed to a higher level position without prior approval of the State Civil Service Director, or 3) may be separated or disciplined in accordance with State Civil Service Rules applicable to the employee's status, in accordance with YS Policy No. A.2.45 "Performance Evaluation System (PES) and Performance Adjustments".

These actions differ from those described in Section I above, in that they are usually the result of Performance Evaluation documentation rather than a violation report, but they can be imposed as the result of a VR-1 as well.

A. Withholding of Performance Adjustment

In accordance with Civil Service Rules, a performance adjustment cannot be granted if an employee's overall rating is "Needs Improvement/Unsuccessful".

NOTE: *The employee's rating shall not be negatively affected solely due to a disciplinary action which is still in effect for a violation that occurred in the previous rating period.*

B. Probationary Period

It is the Deputy Secretary's policy that probationary periods for employees of YS, as described herein, shall be for a period of two (2) years. In order to provide the employee an opportunity to acquire and demonstrate new skills, display ability to adapt and improve, and provide sufficient opportunity for the unit to evaluate the appropriateness of granting permanent status.

C. Letters of Counseling (LOC) / Letters of Improvement (LOI)

The appointing authority may issue letters (such as warning, counseling, coaching, reprimands, supervisory plans, etc.) to attempt to improve an employee's behavior.

1. An employee may respond in writing to a LOC/LOI. The employee's response must be attached to each copy of the letter kept by the supervisor.
2. If the same or similar conduct recurs, a LOC/LOI can be used to support the severity of future discipline, but only if the letter advised the employee that the letter could be used for this purpose and advised the employee of his right to respond.
3. A LOC/LOI is not discipline, is only appealable under Rule 13.10(b) or (c), and may not be included in any publicly accessible personnel record.

III. Other Suspension Options

A. Suspension Pending Investigation

An employee may be verbally suspended by the Unit Head or his designee pending an internal investigation when it is believed that he has engaged in conduct which, if confirmed, would warrant disciplinary action and the employee's continued presence at work during the investigation would not be appropriate. The employee shall be placed on leave pending investigation (LI).

1. The employee shall be notified in writing that he is being suspended with pay and the general nature of the conduct being investigated.
2. A Suspension Pending Investigation is with pay, cannot exceed 260 work hours. Enforced compensatory or enforced annual leave cannot be used for this 260 hour period.
3. A suspension pending investigation is not discipline and is only appealable under Civil Service Rule 13.10(b) or (c).

B. Suspension Pending *Criminal* Proceedings

1. With prior Civil Service Commission approval, an appointing authority may suspend a permanent employee, without pay, pending criminal proceedings when an indictment or bill of information has been filed

against the employee for conduct that, if proved, would be cause for dismissal and the appointing authority cannot obtain sufficient information to initiate dismissal proceedings.
2. An appointing authority's request for approval of a suspension under Civil Service Rule 12.5 shall explain:
 - a. Why the conduct would be cause for dismissal;
 - b. Why the employee cannot be allowed to work in any capacity;
 - c. Why sufficient information to initiate dismissal proceedings cannot be obtained; and
 - d. Documentation that an indictment or bill of information has been filed.
3. Before approving a suspension under this rule, the Civil Service Commission must furnish the employee a copy of the appointing authority's request and a reasonable opportunity to respond.
4. A permanent employee suspended under this rule shall be given written notice before the time the suspension begins. This notice shall comply with Civil Service Rule 12.8 to the extent possible.

IV. Enforced Leave

A. Enforced Sick Leave

Civil Service Rules state that an appointing authority may place an employee on sick leave when the employee asserts the need to be absent from the work place because of the employee's illness or injury. An employee who reports to work, with a doctor's excuse or medical release containing a restriction that prevents

them from performing the essential functions of their job assignment; are typically placed on enforced sick leave, however, placement is at the discretion of the Unit Head.

The employee shall then be instructed to have his/her doctor fill out a new Essential Functions Form (EFF) and request for accommodations, if applicable. Once that documentation is obtained, the employee shall contact the unit's Human Resource Liaison to schedule a return to work hearing, at which time a determination will be made whether the employee can return to work performing his/her regular job functions, or if more time off is necessary to recover from his/her ailment.

If the employee's condition involves an impairment that meets qualifications under the Americans With Disabilities Act (ADA), the return to work hearing will determine if reasonable accommodations are available. Employees can refer to YS Policy No. A.2.13 "Americans with Disabilities Act (Employees, Applicants, Candidates, Visitors)" for more information on ADA Accommodations.

B. Enforced Annual Leave

A Unit Head may require an employee to take annual leave when it is determined such action is in the best interest of the unit and shall not cause the employee's annual leave balance to be reduced below 240 hours, the amount specified by Civil Service Rules (11.9.b).

All annual leave, (regular and enforced) has a roll or substitution routine in the payroll system, LA GOV-HCM. This means that before annual leave is reduced, the system will first reduce the K-time balance (1.5 rate), then the K-time balance (straight rate), and finally the Annual balance to cover the hours requested.

Reduction of K time is not a disciplinary action, but the LA GOV-HCM system will always take K-time first whenever "A- leave" is entered.

V. Removals

A Unit Head or his designee may remove an employee for non-disciplinary reasons as described in Chapter 12 of the Civil Service Rules. Reasons for non-disciplinary removals include: 1) less than eight (8) hours of sick leave and the employee is unable to perform the essential functions of the job due to illness or medical disability; or 2) has seven (7) or more unscheduled absences during any consecutive twenty-six (26) week period; or 3) when the employee, because of conduct that is not work related, fails to obtain or loses a license, commission, certificate or other accreditation that is legally required for him to hold his job; or 4) when the employee hold more than one (1) position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act, and after having been provided the opportunity to do so, the employee refused to resign from one of the positions; or 5) when there is cause for dismissal, but the cause is not the employee's fault.

NOTE: *Employees may be removed for exhaustion of sick leave only after the requirements of the Family and Medical Act (FMLA) have been met (i.e., up to 12 weeks of leave per year for those employees who are eligible for and entitled to this benefit) and after the Americans with Disabilities Act (ADA) applicability has been reviewed and determined. A written pre-deprivation (Loudermill) notice must be sent to those employees proposed for removal.*

VI. Separations

A. Probationary Separation

1. A probationary employee may be separated by the appointing authority at any time under Civil Service Rule 9.1(e). Separations shall be effected by a standard transmittal letter bearing the signature of the Unit Head or his/her designee.
2. When an employee on probation is separated Civil Service does not require that the employee be given a reason for the separation. The Unit Head shall provide the employee a standard transmittal letter which simply advises the employee that:
 - a. Employment shall be terminated as of a specific date; and
 - b. The employee shall have the right to appeal under the provisions of Chapter 13 of the Civil Service Rules, which are available in the unit's Human Resource Liaison's Office only if an issue of discrimination or a violation of Civil Service Rules is alleged.

B. Permanent Employee Separation

1. When an appointing authority decides to remove a permanent employee, the employee must be given written notice of the action being taken before the time the action becomes effective. The written notice must:
 - a. State what action is being taken and the date and time the action will become effective;
 - b. Describe in detail the conduct for which the action is being taken including, where pertinent, dates, times, places, and names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification may be made as permitted by law); and
 - c. Contain the following notice: "You have the right to appeal this action to the State Civil Service Commission within 30 calendar days following the date you receive this notice. The appeal procedure is contained in Chapter 13 of the Civil Service Rules, which is available from the Department of State Civil Service or your unit's Human Resource Liaison's Office."

2. Written notice is considered given when:
 - a. It is hand delivered to the employee; or
 - b. It is hand delivered to a person of suitable age and discretion who resides with the employee; or
 - c. On the 7th calendar day after it was mailed with correct postage to the most recent address furnished by the employee in writing or electronically to the unit's Human Resource Liaison's Office.

Other rights of appeal provided to an employee with permanent status shall not apply to an employee with probationary status. (The employee's copy of the Louisiana Department of Labor – Employment Services Form [LDOL-ES 77] and the Employee Notification Form should be attached to the transmittal letter.)

VII. Resignation

1. An employee's oral or written resignation becomes effective on the date and time specified by the employee. An oral resignation must be documented by the person receiving it.
2. An employee may not withdraw or modify the resignation after the appointing authority accepts it, unless the appointing authority agrees.
3. When, after receiving notice that dismissal has been proposed, an employee resigns to avoid dismissal, the resignation must be reported as such.

EMPLOYEE RULES AND CONDUCT CODE

PART IV: THE VIOLATION REPORTING and INTERNAL DISCIPLINARY PROCESS

I. WRITING AND INITIATING THE VR1

- A. Supervisors usually write VR1 descriptions either from their first-hand involvement or from Unusual Occurrence Reports (UOR) submitted to them.
- B. Employees are mandated to report rule violations on a UOR, which is then given to the supervisor. (See YS Policy No. A.1.14 "Unusual Occurrence Report", and Employee Rule #10, "Failure to Report Employee Rule Violations".)
- C. When a rule violation is found in an Investigative Services investigation, the VR1 description shall be authored by a Legal Services staff attorney, and signed by a supervisor or supervisory-level employee.
- D. The person who signs or authors the initial VR1 description cannot participate in the disciplinary process for that VR1.
- E. If the Unit Head decides to issue a LOC upon reading the VR1 description, no *Loudermill* pre-deprivation letter will be issued. (See **Section IV, LETTERS OF COUNSELING/LETTERS OF IMPROVEMENT** for procedures.)

II. The *LOUDERMILL* (pre-deprivation) LETTER; *LOUDERMILL* REQUIREMENTS OF NOTICE AND OPPORTUNITY TO BE HEARD; INITIAL PENALTY RECOMMENDATION

(For the purposes of making an initial penalty recommendation, the term "Unit Head" means all Secure Care Facility Directors, Community Based Services (CBS) Regional Managers, and applicable Central Office Section Heads. For all steps beyond the initial penalty recommendation, the Regional Director shall be the Unit Head for CBS.)

- A. Civil Service Rule 12.7 requires notice be provided to an employee when a disciplinary action is proposed, and also provides the employee a reasonable opportunity to respond to the proposed disciplinary action. Civil Service Rules also require that the notice include the factual basis for and a description of the evidence supporting the proposed disciplinary action. This notice with an opportunity to provide a written response is known as the *Loudermill* (pre-deprivation) phase of this process, during which a *Loudermill*/pre-deprivation letter is sent to the employee.
- B. The *Loudermill* letter shall include the Civil Service Rule requirements and inform the employee that he may provide a written response to the Unit Head.

- C. Should the employee choose to respond to the proposed disciplinary action described in the *Loudermill* letter, he shall do so in writing to the Unit Head. The written response must be postmarked or hand carried to the Unit Head's office **no later than 10 calendar days after the *Loudermill* pre-deprivation letter is mailed.**
- D. The employee should attach witness statements to his response or anything he deems relevant to the matter.
- E. The employee may mail or hand-deliver his response to the Unit Head.
- F. The written response must be postmarked or received in the Unit Head's office no later than close of business ten (10) calendar days after the date on the certificate of mailing.
- G. The Unit Head shall date-stamp the response with the date that the response is received.

III. UNIT HEAD REVIEW AND DECISION

A. Timely response received

If a timely response to the *Loudermill* letter is received, the Unit Head will review the documents and make a written decision as to the action, such as the appropriate penalty, modified action, no action, etc. A Unit Head decision shall be rendered no later than five (5) calendar days from receipt of the employee response, unless as outlined in Section III.C below, a 10-day extension is granted.

B. Untimely response or no response

If no response to the *Loudermill* letter is received by close of business ten (10) calendar days after the date on the certificate of mailing, the proposed penalty as written or as modified downward by the Unit Head must be converted to a final Unit Head penalty decision. This decision shall be rendered no later than fifteen (15) calendar days from the time a *Loudermill* pre-deprivation letter is mailed to an employee. If the Unit Head modifies the penalty downward, the explanation for that modification must be written in the VR1 in the appropriate location. (For the purposes of this policy, the Regional Director shall serve as the "Unit Head" for CBS.)

C. Extension of time for further investigation

1. If, after receiving the employee's response, the Unit Head determines that the facts of the VR1 require more investigation, the time limit listed in Section III, A. may be extended a maximum of ten (10) calendar days to allow for further investigation.
2. If the Unit Head opts to investigate, the Data Input Person (DIP) will make that entry in the Legal Services Employee Activity Database to explain the delay in responding.

3. The DIP shall also inform the employee in writing that the matter is being investigated and that the ten (10) day extension has been granted.

See Form #1, 10-day extension notice to employee at end of policy

IV. LETTERS OF COUNSELING (LOC)/LETTERS OF IMPROVEMENT (LOI)

- A. A LOC / LOI is a non-disciplinary tool used to attempt to improve an employee's conduct, work performance, etc. In some cases, a LOC is an appropriate response to a rule violation. If the Unit Head decides that a LOC is appropriate, he shall write the LOC and give it to the employee.
- B. A LOC can be issued by a supervisor without the necessity of a rule violation description entered into the Legal Services Employee Activity Database.
- C. All LOCs shall follow the form provided in the procedures for this policy, which is attached as an appendix to this policy.
- D. An employee may respond in writing to the LOC. The employee's response must be attached to each copy of the LOC kept by the agency in the employee's supervisory file, not in the official Personnel file.
- D. All LOCs and employee responses must be downloaded to the Legal Services Employee Activity Database.
- E. If the same or similar conduct recurs, a LOC can be used to support the severity of future discipline, but only if the letter advised the employee that the letter could be used for this purpose and advised the employee of his right to respond.
- F. A LOC is only appealable under Civil Service Rule 13.10(b) or (c), and may not be included in any publicly accessible personnel record.
- G. The supervisor who issues a LOC is responsible for keeping the LOC and the employee's response, if any, in the supervisor's file in which he gathers information pertinent to performance evaluations, and to transmit the letter to the unit's DIP for downloading into the Legal Services Employee Activity Database.
- H. Additional training may be ordered in a LOC. If the supervisor orders additional training, he must provide a copy of the LOC to the Staff Development Coordinator at the unit, who will schedule the training and verify to the Unit Head that it has been completed.

V. REVIEW BY THE DEPUTY SECRETARY

If a penalty of termination or demotion of more than one level is proposed, **and** the employee furnished a timely written response to the VR1 for the Unit Head review (Section III.A above), the disciplinary action shall be transmitted to the Deputy Secretary for a final review and decision. The employee does not have to do anything other than provide a timely written response to the *Loudermill* letter to qualify for this review.

A. Deputy Secretary's Review

1. Approval of Unit Head's Final Decision-

If the Deputy Secretary approves the Unit Head's final decision, the final disciplinary letter shall be issued by the Unit Head no later than twenty (20) calendar days from the Unit Head's final decision.

2. Modification of Unit Head's Final Decision (decreasing the penalty)

If the Deputy Secretary decreases the Unit Head's final decision, the final disciplinary letter shall reflect the decrease as the decision of the Deputy Secretary and shall be issued by the Unit Head no later than twenty (20) calendar days from the date of the Unit Head's decision.

3. Modification of Unit Head's Final Decision (increasing the penalty)

If the Deputy Secretary increases the Unit Head's final decision, the Deputy Secretary shall issue a letter informing the employee of the increased penalty, and give the employee an additional ten (10) days from the date of this letter to submit a written response to the action increasing the penalty. When the employee's response is received, or after the 10-day response deadline passes, whichever occurs first, the Deputy Secretary shall make a final decision and send the employee notice of that decision. The final disciplinary letter shall be issued by the Unit Head.

B. Review by a Designee

1. The Deputy Secretary may establish a pool of supervisory-level Central Office staff to act as designees to review these actions. The Deputy Secretary may designate one person from the pool to review the disciplinary action. **(See Form #4, Form DS uses to designate a hearing officer for Deputy Secretary's review.)**

2. No one designated by the Deputy Secretary shall review disciplinary cases until they have received training from Legal Services on conducting administrative reviews.

3. If a designee perceives that a conflict of interest exists that might influence their decision or prevent them from being impartial, they shall recuse themselves in writing to the Deputy Secretary, who will make a substitute appointment.

4. The designee shall make a written recommendation of action to the Deputy Secretary no later than ten (10) calendar days from the date he was designated and received the paperwork to review.

5. The Deputy Secretary shall review and adopt or modify the designee's recommendation.

6. Adopting Designee's Recommendation of decreasing the penalty:

If the Designee's Recommendation decreases the Unit Head's final decision and the Deputy Secretary adopts the Designee's Recommendation, the final disciplinary letter shall be issued by the Unit Head no later than twenty (20) calendar days from the date of the Unit Head's final decision.

7. Adopting Designee's Recommendation of increasing the penalty:

If the Designee's Recommendation increases the Unit Head's final decision and the Deputy Secretary adopts the Designee's Recommendation, the Deputy Secretary shall issue a letter informing the employee of the increased penalty, and give the employee an additional ten (10) days from the date of this letter for the employee to make a response to the action increasing the penalty. When the employee's response is received, or after the ten (10) day response deadline passes, whichever occurs first, the Deputy Secretary shall make a final decision and send the employee notice of that decision. The final disciplinary letter shall be issued by the Unit Head.

8. All written correspondence from the Deputy Secretary shall be mailed to the employee with a certificate of mailing or hand delivered to the employee at work, having the employee sign an acknowledgement that he has received the document (note: if the employee is on leave, FMLA or absent for any reason the final discipline letter shall be sent through the mail as described above).

VI. CENTRAL OFFICE REVIEW

At various times, Central Office Executive Staff, review the disciplinary process in its different stages. At any time in the disciplinary process, a Central Office reviewer can bring a disciplinary action to the attention of the Deputy Secretary or Assistant Secretary, if that reviewer finds a discrepancy, error, disparity, or any other irregularity that may need to be addressed before the final disciplinary action is put into effect.

If the proposed penalty letter has already been sent to the employee, and as the result of a Central Office Review the proposed disciplinary action is being modified at Central Office, a new *Loudermill* pre-deprivation letter shall be issued. The new *Loudermill* pre-deprivation letter shall include the modified information, clearly stating that the second letter is voiding and replacing the original *Loudermill* pre-deprivation letter.

VII. DEADLINES AND TIME LIMITS

The deadlines and time limits in this policy are to be strictly enforced to the extent practicable under workloads and conditions at the time of a particular action. Considering the number of steps in this process and the involvement of executive-level staff in review of the most severe cases, should a deadline pass, it shall not void or nullify the disciplinary action. If an employee can describe in particular that he has been prejudiced by a missed

deadline, he should, in writing, bring that to the attention of the Executive Staff assigned to the disciplinary process. The matter will be considered on a case-by-case basis by the Assistant Secretary and General Counsel in consultation with pertinent executive staff.

VIII. CIVIL SERVICE APPEAL RIGHTS

Up-to-date information on an employee's appeal rights and appeal procedure can be located at the Civil Service website, <http://www.civilservice.louisiana.gov/>, or at your unit's Human Resource Liaison's Office or the Public Safety Services Human Resource Office. A few pertinent rules from Chapter 13 of the Civil Service Rules are as follows:

13.10 Appeals to the Commission-

Only the following persons have a right of appeal to the Commission:

- (a) A state classified employee with permanent status who has been removed or subjected to one of the disciplinary actions listed in Rule 12.2(b).
- (b) A state classified employee who has been discriminated against in any employment action or decision because of his political or religious beliefs, sex or race.
- (c) A state classified employee who has been adversely affected by a violation of any provision in the Civil Service Article or of any Civil Service Rule other than a rule in Chapter 10.

13.11 Request for Appeal.

A notice of appeal must:

- (a) Be in writing; and
- (b) Be signed by the appellant, or on his behalf by an attorney duly licensed to practice law in the Courts of the State of Louisiana, or on his behalf by a senior student of law designated under the provisions of Rule 13.19(b)2; and
- (c) Give the name and mailing address of the appellant, and of his attorney or designated senior law student, if any and
- (d) Contain a clear and concise statement of the actions complained against and a clear and concise statement of the basis of the appeal. Where discrimination is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion of discrimination is not sufficient. The types of facts which must be included are:
 - 1. the date, time and place the discriminatory action took place;
 - 2. the name of the person or agency alleged to have taken the discriminatory action;
 - 3. a description of how appellant's action, conduct or performance was the same as that of other persons who were treated differently;

4. the names of other persons treated differently and the dates the different treatment occurred;
5. a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any other non-merit factor.

Where a violation of the Article or a Rule is alleged to be a basis for appeal, specific facts supporting the conclusion that a violation has occurred must be alleged in sufficient detail to enable the agency to prepare a defense.

- (e) Give the date on which the action appealed from occurred, or that the appellant learned thereof; and
- (f) State the date that the appellant received written notice of the action complained against, if written notice was given; and
- (g) State the relief the appellant seeks.

13.12 Delay for Making Appeal.

- (a) No appeal shall be effective unless a written notice complying with the requirements of Rule 13.11 is either (i) received in the office of the Director of State Civil Service at Baton Rouge, Louisiana, or (ii) is addressed to the Director of State Civil Service at Baton Rouge, Louisiana, with proper postage affixed, and is dated by the United States Post Office.
 1. Within thirty (30) calendar days after the date on which appellant received written notice of the action on which the appeal is based when written notice before or after the action is required by these Rules; or
 2. Within thirty (30) calendar days after the date when appellant learned or was aware that the action complained of had occurred when no written notice is required by these Rules or, if required, was given tardily or not at all.
- (b) Legal holidays and days on which the office of the Department of State Civil Service is closed shall not serve to extend the delay period specified in Sub-section (a) hereof.
- (c) No appeal shall lie against any action following the expiration of three hundred sixty-five (365) calendar days from the date on which it occurred.
- (d) No appeal shall be supplemented or amended following the expiration of the delay period stipulated by Sub-section (a) hereof.
- (e) Proof of the timeliness of mailing a request for appeal shall be shown only by a legible official United States postmark or by official receipt or certificate from the United State Postal Service made at the time of mailing which indicates the date thereof. In the event that the postmark is absent or illegible, the date that the request is received in the Unit Head's office shall determine whether the appeal was timely filed.

INTERNAL DISCIPLINARY PROCESS FORM LETTERS

Form #1: *Loudermill* pre-deprivation letter for a disciplinary action

LOUDERMILL/PRE-DEPRIVATION LETTER

Date (should be the same date as the date on the certificate of mailing)

Employee Name

Address (most recent address furnished to ISIS, PeopleSoft, or HR)

City, State, Zip

Dear Employee:

I propose to (describe the penalty here) for violating Employee Rule # (number and description of the rule).

(include this if pertinent) Due to the confidentiality of information pertaining to offenders as set forth in La.R.S.15:574.12 and the Children's Code, the youth involved have been identified herein as Youth A, B, C, etc. A separate page stating the full names of the youth is attached so that you will be fully informed of the detailed reasons for this action against you in accordance with Civil Service Rule 12.8(a). The page with the actual name of the youth involved is confidential and will not accompany any other copies of this letter.

(Description of the incident, copy and paste the VR-1 description that was approved by Legal)

You have the right to respond to this proposed action and to explain why you should not be (penalized) or why a less severe action should be taken. To be considered, your written response must be received in my office no later than 4:30 pm on (date that is 10 calendar days after the date on the certificate of mailing). You can mail your response to me at (address), or hand-deliver it to my office. Please be sure to attach any witness statements or any other information that you believe will help me make the best decision. After your response has been considered, you will be advised what action, if any, will be taken.

Sincerely,

Appointing Authority

Attachments: Page with youth names

Any other documents referred to in VR-1 description as attachments

Form #2: When 10-day investigative extension is invoked

To: (employee)

From: Unit Head

Date:

Dear (employee):

Your response to the *Loudermill* letter issued to you for an incident that occurred on (DOI) has prompted the (Unit Head, director, regional manager, whatever is pertinent) to further investigate the facts of this incident. Therefore, the fifteen day time limit in which to provide you with a decision has been extended for no more than ten additional days. (Unit Head) may need to call you or others in for an interview, or may need to interview you or others over the phone. If you do not cooperate with this information-gathering process, (Unit Head) will have to go forward and make the decision on the VR-1 without your additional input. If you are on leave during this time, (Unit Head) will most likely try to reach you by phone if there is additional information needed from you.

We are providing you with this notice in accordance with YS Policy No. A.2.1 "Employee Manual" so you will know the status of this matter and when you may expect a decision. You do not need to do anything in response to this notice.

Sincerely,
Appointing Authority

Form #3: Mandatory Letter of Counseling (LOC) Form

Dear (Employee):

This letter will serve as a letter of counseling. As such it will not be placed in your official personnel file and is not considered to be a disciplinary action. If you wish to respond in writing to this letter, you may, and your response will be attached to each copy of this letter kept by your supervisor.

{Description of incident and citation of rule violation goes here, could be the text of the VR-1 description.}

This letter of counseling is in lieu of official disciplinary action¹. Your supervisor will maintain it in his/her files; it will not be placed in your official personnel file. But, be aware that it could be used as a prior offense to enhance penalties if you are again found to be in violation of the same or a similar YS employee rule. The State Civil Service Commission has held that prior counseling's may be used to support the severity of an action taken against an employee for the same, or a very similar offense that was the subject of the previous counseling.

[Here, the author of the LOC may want to make some pertinent statements of the "counseling" that he is doing, for example, "Please be aware of the importance of your leadership position at XYZCY and the responsibilities of your position. You must not fail to follow all reporting requirements, as well as supervise and manage all aspects of your assigned area(s)."]

Sincerely,

Whoever is writing this letter

1 Civil Service Rule 12.9 Improvement Letters.

- (a) An appointing authority may issue letters (such as warnings, counseling, coaching, reprimands, supervisory plans, etc.) to attempt to improve an employee's conduct.
- (b) An employee may respond in writing to an improvement letter. The employee's response must be attached to each copy of the letter kept by the agency.
- (c) If the same or similar conduct recurs, an improvement letter can be used to support the severity of future discipline, but only if the letter advised the employee that the letter would be used for this purpose and advised the employee of his right to respond.
- (d) An improvement letter is not discipline, is only appealable under Rule 13.10(b) or (c), and may not be included in any publicly accessible personnel record until used to support future discipline.

Form #4: Form DS Uses to designate a hearing officer for Review

(The Deputy Secretary may establish a pool of supervisory-level Central Office staff to act as designees to review these actions (termination or demotion of more than one rank). The Deputy Secretary may designate person from the pool to review the disciplinary action.)

To: (Designee)

From: Deputy Secretary

RE: DS review for serious penalty case (insert case info. here)

Date:

You are a member of the pool of supervisory-level Central Office staff that has been selected to act as designees to review disciplinary actions when the penalty is termination or demotion of more than one rank/demotion of more than one pay level. You are my designee for the attached matter.

Please have your written recommendation to me no later than close of business (date 13 days after the date of the Unit Head decision). My response to the employee must be mailed/delivered to the employee no later than (date 20 days after the date of the Unit Head decision).

Attachment: Original VR-1 and all backup documentation

EMPLOYEE RULES AND CONDUCT CODE

PART V: REHIRE/REEMPLOYMENT CONSIDERATIONS

- I.** A former permanent employee who resigns from classified service in good standing, or for non-disciplinary reasons may, within ten (10) years, be non-competitively reemployed in any position for which he/she is qualified and which is at the same or a lower pay level than the class in which he/she had permanent status, in accordance with Civil Service Rules.
- II.** An employee who resigns to avoid being terminated from his/her position in state service shall lose eligibility for non-competitive reemployment, rehiring at former pay rate, placement on the department preferred reemployment list, and the right to have annual and sick leave restored.

NOTE: A resignation shall be designated as "Resignation to Avoid Dismissal" only when the recommended action on the VR-1 is dismissal. If an employee resigns to avoid any other penalty, the action shall be designated simply as a resignation.

When an employee resigns to avoid dismissal, the employing unit shall document fully the circumstances that brought about the resignation. Copies of the documentation shall be filed in the employee's personnel record. The employee shall be given a copy of the personnel action form.

- III.** If an employee is laid off or displaced during a layoff, he/she shall be given preferential hiring rights. Additional information is available from the Public Safety Services Human Resources Office.

RULES AND CONDUCT CODE

PART VI: DEFINITIONS

BUSINESS WORKDAY - Usual administrative workday (i.e., 8:00 a.m. until 4:30 p.m. Monday through Friday, except official state holidays); does not include weekends.

CALENDAR DAYS - Consecutive days including weekends and holidays.

CHILD CARE AGENCY - [Children's Code 603(6)] - Any public or private agency exercising custody of a child. OJJ is a child care agency.

DIRECT ORDER - An order, whether verbal or written, directed to a specific named employee.

DISCIPLINARY ACTION - Civil Service Rule 12.3 provides that only the following are disciplinary actions: suspensions without pay; reductions in pay; involuntary demotions and dismissals.

DISCHARGE FROM EMPLOYMENT - (various definitions)

Dismissal - Discharge from employment for disciplinary reasons.

Removal - Discharge from employment for non-disciplinary reasons as set forth in Civil Service Rule 12.6.

Resignation - Termination of employment at the employee's request. Termination is effective upon its acceptance by the Unit Head or other appointing authority, or by the occurrence of the effective date and time specified by the employee in his statement of intention to resign.

Resignation to avoid disciplinary action - Termination of employment at the employee's request after the employee has been advised that he has committed a rule violation and that dismissal/termination is a possible penalty.

Probationary Separation - Discharge from employment during the probationary period as set forth in Civil Service Rule 9.1(e).

Permanent Employee Separation - Removal of a permanent employee from service by an appointing authority as set forth in Civil Service Rule 12.8.

Termination - A general term for a voluntary or an involuntary separation from employment (see also dismissal, removal, separation, resignation).

ENFORCED LEAVE - As used in this document, the placement of an employee on enforced annual, sick or compensatory leave in accordance with Civil Service Rules 11.9, 11.13.1 and 21.6(b), respectively.

FLEX CUFFS - A flexible plastic restraining device designed specifically for restraining individuals, used only in extraordinary situations, and only under the guidelines established in YS Policy No. C.2.6 "Use of Interventions – Secure Care."

FORCE – A physical, chemical*, or mechanical intervention that causes someone to act in a manner contrary to his intent or causes him to change his behavior to a desired action or to more desirable conduct.

***CHEMICAL REFERENCE APPLIES ONLY TO PROBATION AND PAROLE STAFF**

FRAUD - Any intentional deception, misrepresentation or omission of important facts.

INVESTIGATIVE SERVICES (YS Policy No. A.1.4) - Assists the administration in creating a safe environment for youth and staff. IS staff are charged with the responsibility for verifying ALL YS applicants through the IS Central Registry, investigating allegations of abuse, including physical, sexual, mental or emotional abuse on the grounds of YS secure care facilities . This includes acts of violence by youth-on-youth, staff-on-youth and youth-on-staff. IS also completes investigations into allegations and sexual abuse or harassment, and referring for criminal prosecution those allegations which may involve criminal conduct, and aggressively responding to sexual abuse, sexual abuse included above, sexual harassment and voyeurism pursuant to YS Policy No. C.2.11 "PREA". Allegations of inappropriate staff/youth relationships are also investigated pursuant to YS Policy No. A.2.62. IS staff also conduct investigations on crimes committed on the grounds of secure facilities as described in YS Policy No. C.1.3 "Crimes Committed on the Grounds of YS Facilities/Office Buildings and/or Properties," and C.2.1 "Escapes and Runaways, Apprehensions, Reporting." IS staff also conduct other investigations as assigned by the Deputy Secretary.

LETTER OF COUNSELING (LOC) / LETTER OF IMPROVEMENT (LOI) – A non-disciplinary letter (such as warning, counseling, coaching, reprimand, supervisory plans) presented to an employee under the signature of the Unit Head (or his designee), which specifically advises the employee of his offending behavior and provides guidance and instruction regarding a required change in behavior. The LOC/LOI is an official part of the Performance Evaluation process and is non-appealable through the disciplinary process. A LOC/LOI will not be made part of an employee's personnel file, but will be maintained in a separate file by his supervisor. A LOC/LOI for a particular rule violation can be used to increase penalties for subsequent rule violations.

LOUDERMILL - A United States Supreme Court case that established that a person's job is a property right, and as such he/she cannot be deprived of his property without due process of law, that is , the right to be given notice and an opportunity to be heard.

- a. **NOTICE: (*Loudermill* Letter)** - Written notification given to an employee of rule violations he has been charged with, advising him of the proposed penalty and his opportunity to be heard (respond to the charges). Employees who are pending

removal from employment for non-disciplinary reasons also receive a written *Loudermill* notice from the Unit Head.

- b. **OPPORTUNITY TO BE HEARD** - The *Loudermill* letter tells the employee that he has ten (10) days in which to respond in writing to the charges. The employee's letter and explanation, documentary evidence, and witness's statements are examples of what a written response might contain. If the response is timely received, the Unit Head will make it part of the record and take it into consideration before he makes his final decision on the matter.

MANDATORY REPORTER [Children's Code 603(A) (15)] - Any individual performing their occupational duties who have an obligation to report suspected abuse or neglect that endangers the physical or mental health or welfare of a youth age 17 or under to the local office of the Child Protection Unit of the Department of Social Services in the parish where he/she is employed.

MECHANICAL RESTRAINT - A restraining device that establishes a higher level of restrictiveness. Mechanical restraints are approved handcuffs, handcuff belts, leg irons, and their keys, and shall be applied by trained custody staff.

NO ACTION - Decision made by the Unit Head (or his designee) or Deputy Secretary (or his designee) to take no action, in any manner, on a VR-1. A no-action VR-1 shall not be made a part of the employee's personnel record.

NON-TENURED TEACHER - Instructional personnel, including coaches and school administrators, who possess a teaching certificate or other instructional certificate as required by their job description, with either less than three years of service in an instructional capacity with YS, or those that have lost tenure following an ineffective rating on their annual Compass assessment.

PERFORMANCE EVALUATION REVIEW - A VR-1 does not always result in a disciplinary action. It may result in initiation of formal performance documentation in the Performance Evaluation process. Any performance documentation shall be kept in the employee's Performance Evaluation file, and maintained by his supervisor.

PHYSICAL INTERVENTION - A use of force which involves the application of approved techniques or restraints by a staff member to physically restrain a youth whose behavior is out of control, presenting an unsafe situation.

PROPERTY - Property includes, but is not limited to contraband, state owned equipment, and such items as food, clothing, equipment or other personal items.

REASSIGNMENT - The change, within the same department, of a probationary or permanent employee from a position in one job title to another position with a different job title, both of which have the same pay range. Employees subject to such action must qualify for the job to which they are being reassigned.

REDUCTION IN PAY - An action taken either for disciplinary reasons, demotion, or as a layoff avoidance measure whereby an employee's pay is reduced but the employee remains in the same job.

REGIONAL DIRECTOR – The Deputy Assistant Secretary responsible for the oversight of all functions and operations of the Community Based Services Regional Offices and the secure care facility in their assigned Region. For the purposes of this policy, the Regional Director is the Unit Head responsible for signing letters of disciplinary action on Community Based Services employees.

REPORTABLE INJURY: (YS Policy No. A.1.4) - An injury that threatens a youth's life or limb, that requires urgent treatment by a doctor, severely restricts the youth's usual activities or requires follow-up by a doctor.

RESTITUTION - If an employee damages, loses, or steals the property of the State or of a youth, he may be required to compensate the youth or the state for their loss or damage.

SERIOUSLY ENDANGER - An act which places the physical, mental, or emotional health and safety of a youth at risk and can be supported by persuasive, substantial, clear and convincing evidence that the youth's welfare may be injuriously affected.

SUBSTANTIATED REPORT: (YS Policy No. A.1.4) - An Investigative Services report following an allegation of abuse which finds that abuse has occurred.

SUMMONS – A ticket or citation issued to a person in lieu of his arrest for the commission of any traffic, criminal, or drug offense.

SUSPENSION - Temporary release from employment for disciplinary reasons, pending criminal proceedings, or while an internal investigation is being conducted. A suspension can be imposed as either unpaid time off from work, or as a reduction in pay equivalent to a certain number of days of suspension.

TENURED TEACHER - Instructional personnel who possess a teaching certificate or other instructional certificate as required by their job description with a *minimum* of three years of service in an instructional capacity with YS, including coaches and school administrators.

TUTORS, TEACHERS' AIDES, TEACHERS' ASSISTANTS - Non-instructional, unclassified personnel.

UNIT HEAD - The head of an operational unit such as Facility Director, Regional Manager, and Deputy Secretary (for Central Office.)

UNUSUAL OCCURRENCE REPORT (UOR) -

A document that must be completed by staff to report incidents or observations of events that may have an impact on any aspect of the agency. UOR forms shall be made available to all employees, working all areas at all times. Employees must complete and submit a UOR prior to the end of their tour of duty on the day the incident was observed or comes to the employee's attention in any way. If a UOR form is not available, the employee must use any paper available to report the pertinent information. UORs may also be submitted by email.

VIOLATION REPORT (VR-1) - An internal worksheet usually used to document rule violations. A violation report (VR-1) may result in a disciplinary action, performance review action or no action taken as a result of a specific rule violation.

WORKING DAYS, WORK DAYS - As used in this document, the employee's scheduled work days.

YOUTH - Those persons assigned to the custody and/or supervision of YS or otherwise served by YS.

YOUTH SERVICES (YS) – Youth Services and the Office of Juvenile Justice within the Department of Public Safety and Corrections, charged with providing at-risk and delinquent youth the opportunity to become responsible and productive citizens using partnerships with families, communities, and other entities with emphasis on the safety of the youth and the public.